

Title 5

BUSINESS LICENSES AND REGULATIONS

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Chapter 5.04

BINGO

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5.04.010 Purpose.

The town board declares that the raising of funds for the promotion of bona fide charitable, education, scientific, health, religious and patriotic causes and undertakings is in the public interest.

(Ord. passed 8/1/58, § 1)

5.04.020 Definitions.

The words and terms used in this chapter shall have the same meaning as such words and terms as are defined in Article 14-H of the General Municipal Law, as it may be amended from time to time and as follows:

Authorized organization means an *authorized organization* as defined in Article 14-H of General Municipal Law and includes any bona fide religious or charitable organization of bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firemen, which by its charter, certificate of incorporation, constitution or act of the legislature shall have among its dominant purposes one or more of the lawful purposes as defined in General Municipal Law, Article 14-H; provided, that each shall operate without profit to its members; and provided, that each such organization has engaged in serving one or more of the lawful purposes as defined in said article for a period of one year immediately prior to applying for a *license* under Section 5.04.030 of this chapter.

No organization shall be deemed an *authorized organization* which is formed primarily for the purpose of conducting bingo and which does not devote at least seventy-five (75) percent of its activities to purpose identified in this section. No political party shall be deemed an authorized organization.
(Ord. passed 8/1/58, § 2)

5.04.030 Licensing.

After obtaining an identification number from the control commission, each *applicant* for a bingo license shall file an application subject to the rules and regulation of the control commission to the town clerk. The application will include the name and address, proof of qualification to *license*, names and addresses of its officers and persons in charge and assisting in conducting the games, dates, times, places of all games, anticipated expenses of running the games, and to whom paid and, the purpose to which profits are to be devoted. If the *applicant* intends to conduct bingo on Sundays, that must be set forth in the application and the *license* granted must state whether Sunday games are to be permitted.

The application must include all of the information and documentation required in Article 14-H, Section 480 of General Municipal Law, as it may be amended from time to time.
(Ord. passed 8/1/58, § 3)

5.04.040 Investigations--Matters to be determined--Issuance of *license*--Fees--Duration of *license*.

A. The *town board* shall make an investigation of each *applicant* and the merits of each application, within sixty (60) days after filing of the application with the town clerk. If a determination is made that the *applicant* is duly qualified to conduct bingo, a *license* may be issued.

B. In making its investigation and determination the town board shall determine that the member or members of the *applicant* are bona fide active members of an authorized organization and are persons of good moral character and have not been convicted of a crime or, if convicted, have received a pardon or a certificate of relief from disabilities; that such games are to be conducted in accordance with Article 14-H of General Municipal Law and that the premises in which any game is to be conducted is in compliance with the New York State Uniform Fire Prevention and Building Code and suitable for conducting bingo games.

C. The *license* fee for the bingo application shall be as set by Article 14-H of the General Municipal Law, as it may be amended from time to time. No license shall be issued for a period to exceed one year. In the case of limited period bingo, no license shall be issued authorizing the conduct of such games on more than two occasions in any one day, nor shall any license be issued being effective for a period for more than seven of twelve (12) consecutive days in any one year.
(Ord. passed 8/1/58, § 4)

5.04.050 Restrictions.

Bingo games authorized by this chapter shall be subject to the following restrictions:

- A. Only a licensee may conduct bingo games in the town.
- B. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
- C. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the licensee permitted to conduct the same.
- D. No single or series of prizes shall exceed the sum or value as described in Article 14-H of the General Municipal Law, as it may be amended from time to time. No alcoholic beverages shall be offered or given as any prize in any game of bingo.
- E. No person except a bona fide member of any the licensee shall participate in the management or operation of such game.

- F. No person shall receive any remuneration for participating in the management or operation of any game of bingo.
- G. The unauthorized conduct of a bingo game and any willful violation of any provision of any local law or chapter shall constitute and be punishable as a misdemeanor.
- H. Limited period bingo shall be conducted in accordance with the provisions of Article 14-H of the General Municipal Law and the rules and regulations of the control commission.
- I. No person under the age of eighteen (18) may play unless accompanied by an adult. No person under the age of eighteen (18) years shall be permitted to conduct or assist in the conduct of any game of bingo conducted pursuant to any *license* issued under this chapter.

- J. Bingo may be conducted on Sundays, provided the *license* granted expressly permits it.

(Ord. passed 8/1/58, § 5)

5.04.060 Charge for admission and participation.

Charges for admission and participation shall be as provided for in Article 14-H of the General Municipal Law, as it may be amended from time to time.

(Ord. passed 8/1/58, § 6)

5.04.070 Advertising.

A licensee may advertise the conduct of bingo to the general public by means of a signs in compliance with the zoning law of the town. The size of the sign shall be limited to the requirements of the zoning law as it applies to the particular zoning district in which the licensed bingo is to be located or conducted. All advertisements shall be limited to a description of such event and include the name of the authorized organization licensed to conduct the bingo game, date, location, and time of event.

(Ord. passed 8/1/58, § 7)

5.04.080 Hearing--Amendment of license.

No application for the issuance of a license shall be denied by the town board until after a hearing, held on due notice to the *applicant*, at which the *applicant* shall be entitled to be heard upon the qualifications of the *applicant* and the merits of the application. Any license issued under this chapter may be amended, upon application made to the town board if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee if any, as would have been payable if it had been so included.

(Ord. passed 8/1/58, § 8)

5.04.090 Service of alcoholic beverages prohibited.

No game or games of bingo shall be conducted in any room, indoor or outdoor area where alcoholic beverages are sold, served or consumed during the progress of the game or games.

(Ord. passed 8/1/58, § 9)

5.04.100 Powers and Duties.

The town board or any enforcement officer duly appointed by it or the Chemung County sheriff or one of his or her deputies may enter premises and make an on-site inspections where any game of bingo is being conducted or where it is intended to be conducted to ensure that it is conducted in a lawful and proper manner. By accepting the license, the licensee expressly permits such entry and inspections by the town or the Chemung County sheriff. The town board has the power and authority to suspend or revoke any license for a violation of the rules, regulations or restrictions applicable to bingo games. If suspended or revoked, the licensee shall be given written reasons therefore within ten (10) days and shall have the right to be heard and/or to respond in writing before thirty (30) days at a time and place to be scheduled by the board. The town board may affirm, modify or vacate the suspension or revocation.

(Ord. passed 8/1/58, § 10)

5.04.110 Offenses--Forfeiture of license--Ineligibility to apply for license.

The making of any false statement in any application for a license or in any statement annexed thereto, or any unauthorized operation of bingo in the town shall be a misdemeanor, and shall subject the offender to penalties of a misdemeanor, as well as forfeiture of license and may be grounds for the denial of any future license.

(Ord. passed 8/1/58, § 11)

5.04.120 Persons and equipment used for games.

No person shall hold, operate or conduct any game of bingo under any license issued under this chapter except a bona fide member or volunteer of the *authorized organization* to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of bingo under such license except such licensee or a bona fide member or volunteer of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as hereinafter provided. Any person may however, assist the licensed organization in any activity related to the game of bingo which does not actually involve the holding, conducting, managing or operating of such game of bingo. No items of expense shall be incurred or paid in connection with the conducting of any game of bingo pursuant to any license issued under this chapter, except those that are reasonable and are necessarily expended for bingo supplies and equipment, prizes, stated rental, if any, janitorial services, utility supplies if any, license fees, and bookkeeping or accounting services according to a schedule of compensation prescribed by the control commission.

(Ord. passed 8/1/58, § 12)

5.04.130 Statement of receipts, expenses and additional license fees.

Within seven days after the conclusion of any occasion of bingo, the licensee which conducted the game, shall each furnish to the town clerk a statement subscribed by the member in charge and affirmed by him or her as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from such game or rental, as the case may be, and the use to which such proceeds have been or are to be applied and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement as required by law, and further, within fifteen (15) days after the end of each calendar quarter during which there has been any game of bingo, a summary statement of such information, in form prescribed by the state, shall be furnished in the same manner to the New York State Racing and Wagering Board. Upon the filing of such statement of receipts, the *authorized organization* furnishing the same shall pay to the town clerk as and for an additional license fee a sum based upon the reported net proceeds, if any, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the control commission to defray the cost to municipalities of administering the licensing and operation of bingo games.

(Ord. passed 8/1/58, § 13)

5.04.140 Examination of books and records.

The *town board* and control commission shall have power to examine or cause to be examined the books and *records* of:

- A. Any *authorized organization* which is or has been licensed to conduct bingo, as the books and *records* may relate to bingo including the maintenance, control and disposition of net proceeds derived from bingo or from the *use* of its *premises* for bingo, and to examine any manager, officer, director, agent, member or *employee* thereof under *oath* in relation to the conduct of any such game under any such *license*, the *use* of its *premises* for bingo, prizes awarded, expenses incurred and/or the disposition of net proceeds derived from bingo;
- B. Any licensed authorized commercial lessor as the books and *records* may relate to leasing of *premises* for bingo and to examine the lessor or any manager, officer, director, agent or *employee* thereof under *oath* in relation to any such leasing arrangement.

Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this chapter and any state law applicable to bingo operations.

(Ord. passed 8/1/58, § 14)

5.04.150 Exceptions.

Persons, firms, associations, partnerships, corporations or organizations are excepted from this chapter when holding, operating or conducting bingo in their home for the purposes of amusement or recreation where no player or other person is furnishing anything of value for the opportunity to participate, the participation for such game does not exceed fifteen (15) players and the prize or prizes to be awarded are nominal.

(Ord. passed 8/1/58, § 15)

5.04.160 Enforcement.

The Chemung *County* sheriff's *department* or any officer or officers of the town delegated by the *town board* for enforcement of this chapter may exercise control over games of bingo conducted under duly authorized *license*. The Chemung *County* sheriff's *department* or any such delegated officer of the town shall have all the powers and duties set forth in and for the enforcement of Article 14-H of the General Municipal Law.

(Ord. passed 8/1/58, § 16)

5.04.170 Territorial limits.

This chapter shall be applicable to all bingo games conducted within the town.

(Ord. passed 8/1/58, § 17)

Chapter 5.08

GAMES OF CHANCE

Sections:

5.08.010 Purpose.

5.08.020 Definitions.

5.08.030 Licensing.

5.08.040 Issuance of *license*.

5.08.050 Hearing and amendment of *license*.

5.08.060 Form and content of *license* and display.

5.08.070 Authorized days.

5.08.080 Restrictions.

5.08.090 Control and supervision of *licenses*--Inspection of *premises*.

5.08.100 Charge for admission and participation--Amount of prizes--Award of prizes.

5.08.110 Statement of receipts and expenses--Additional *license* fees.

5.08.120 Advertising games.

5.08.130 *Service* of alcoholic beverages.

5.08.140 Powers and duties of the board.

5.08.150 Offenses--Forfeiture of *license*--Ineligibility to apply for *license*.

5.08.160 Persons and equipment *used* for games.

5.08.170 Enforcement.

5.08.180 Territorial limits.

5.08.010 Purpose.

The *town board* declares that the raising of funds for the promotion of bona fide charitable, education, scientific, health, religious and patriotic causes and undertakings is in the public interest.

(LL No. 3, 1996 § 1)

5.08.020 Definitions.

The words and terms used in this chapter shall have the same meaning as such words and terms as are defined in Article 9-A of the General Municipal Law, as it may be amended from time to time and as follows:

Authorized games of chance are only the games known as "Merchandise Wheels" and "Bell Jars" and such other games as may be authorized by the New York State Racing and Wagering Board in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "Bingo" or "Lotto," as regulated by Article 14-H of the General Municipal Law, and "slot machines," "bookmaking," "policy or numbers games" and "lottery" as defined in Section 225.00 of the Penal Law. No *games of chance* shall involve wagering of money by one player against another player.

Authorized organization means an *authorized organization* as defined in Section 186(4) of General Municipal Law, as it may be amended from time to time, and includes any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution or act of the legislature shall have among its dominant purposes one or more of the lawful purposes defined in Article 9-A of General Municipal Law, and provided that each shall operate without profit to its members, and each such organization has been engaged in serving one or more of the lawful purposes defined in Article 9-A for a period of three years immediately prior to applying for the license.

Bell jars are those games in which a participant shall draw a card from a jar or other suitable container which contains numbers, colors or symbols that are covered and which, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols.

Games of chance includes any other *games of chance* now or hereafter authorized by Article 9-A of the General Municipal Law.

No organization shall be deemed an *authorized organization* which is formed primarily for the purpose of conducting *games of chance* and which does not devote at least seventy-five (75) percent of its activities to the purposes identified in this section. No political party shall be deemed an *authorized organization*.
(LL No. 3, 1996 § 2)

5.08.030 Licensing.

Any *authorized organization* shall apply using an *application* form which has been approved by the New York State Racing and Wagering Board, Bureau of *Games of Chance*, and as the same may be changed by that *town board* from time to time. After obtaining an identification number from the New York State Wagering and Racing Board, the *application* shall then be submitted to the town clerk. Any *license* thereupon issued by the town clerk must conform and meet the requirements of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Racing and Wagering Board and the provisions of this chapter.
(LL No. 3, 1996 § 3)

5.08.040 Issuance of license.

The town clerk shall make a referral to the *town board* which shall make an investigation of the qualifications of each *applicant* and the merits of each *application*, within sixty (60) days after the filing of the *application* with the town clerk.

The *town board* shall determine that the *applicant* is duly qualified to be licensed to conduct *games of chance*; that the member or members of the *applicant* designated in the *application* to manage *games of chance* are bona fide active members or volunteers of the *applicant* and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities; that such games are to be conducted in accordance with the provisions of this chapter and Article 9-A of the General Municipal Law, as amended and in accordance with the rules and regulations of this chapter, the New York State Racing and Wagering Board, and the laws of New York State, and the proceeds thereof are to be disposed of as provided by law; and, if the *town board* is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person operating or assisting, except as otherwise provided by law, then it shall direct the town clerk to issue a *license* to the *applicant* for the conduct of *games of chance* upon payment of a *license* fee of twenty-five (25) dollars for each *license* period. This fee may be changed or increased from time to time by resolution of the *town board*.

No *license* shall be issued which shall be effective for a period of more than one year.
(LL No. 3, 1996 § 4)

5.08.050 Hearing and amendment of license.

No *application* for the issuance of a *license* to conduct *games of chance* shall be denied by the *town board*, until after a hearing, held on due notice to the *applicant*, at which the *applicant* shall be entitled to be heard upon the qualifications and the merits of the *application*. Any *license* issued may be amended, upon the *application* filed with the town clerk and made to the *town board* which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original *license* and upon payment of such additional *license* fee, if any, as would have been payable if it had been so included.
(LL No. 3, 1996 § 5)

5.08.060 Form and content of *license* and display.

Each *license* to conduct *games of chance* shall be in such form as provided in the rules and regulations promulgated by the said New York State Racing and Wagering Board, and the contents thereof shall conform to the provisions as contained in Article 9-A of the General Municipal Law and shall be conspicuously displayed at the place where the same is to be conducted at all times during the conduct thereof.
(LL No. 3, 1996 § 6)

5.08.070 Authorized days.

Games of chance may be conducted at such times as permitted by Article 9-A of the General Municipal Law. No game or *games of chance* shall be conducted under any *license* issued under this chapter more often than twelve (12) times in any calendar year. No particular *premises* shall be used for the conduct of *games of chance* on more than twenty-four (24) *license* periods during any one calendar year.

If the *applicant* intends to operate *games of chance* on Sundays, that shall be stated in the *application* and the *license* granted must state whether Sunday *games of chance* are to be permitted.
(LL No. 3, 1996 § 7)

5.08.080 Restrictions.

The conduct of *games of chance* shall be subject to the following restrictions:

- A. No person, firm, partnership, corporation or organization, other than a licensee under this chapter, shall conduct *games of chance* in the town.
- B. No *games of chance* shall be held, operated or conducted on or within any leased *premises* if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of receipts or net profits derived from the operation of such game.
- C. No *authorized organization* licensed under the provisions of this chapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of *games of chance* from other than a supplier licensed by the New York State Racing and Wagering Board or from another *authorized organization*.
- D. The entire net proceeds of any *game of chance* shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same and the net proceeds of any rental derived therefrom shall be exclusively devoted to the lawful purposes of the authorized *games of chance* lessor.
- E. No single prize awarded by *games of chance* shall exceed the applicable sums or values set forth for the games in Article 9-A of General Municipal Law.
- F. No licensee shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of those limits set forth in Article 9-A of General Municipal Law.
- G. In addition to merchandise wheels, raffles and *bell jars*, no more than five other single types of *games of chance* shall be conducted during any one *license* period.
- H. Except for merchandise wheels and raffles, no series of prizes on any one occasion shall aggregate more than those

limits established and/or amended in Section 189 of General Municipal Law.

- I. Except for the limitations on the sum or value for a single prize and series of prizes, no limit shall be imposed on the sum or value of prizes awarded to any one participant during any one occasion of *license* period.
- J. No person except a bona fide member of any such organization shall participate in the management or operation of any such games.
- K. No person shall receive any remuneration for participating in the management or operation of any such games.
- L. No *authorized organization* shall extend credit to a person to participate in playing a *game of chance*.
- M. No *game of chance* shall be conducted on other than the *premises* of an *authorized organization* of an authorized *games of chance* lessor. Nothing in this chapter shall prohibit the sale of raffle tickets to the public outside the *premises* of the *authorized organization* or an *authorized games of chance* lessor; provided however, that no sale of raffle tickets shall be made more than one hundred eighty (180) days prior to the date scheduled for the occasion at which the raffle will be conducted. The winner of any single prize in a raffle shall not be required to be present at the time such raffle is conducted.
- N. The unauthorized conduct of *games of chance* and any willful violation of any provision of this chapter, shall constitute and be punishable as a misdemeanor.
- O. No person under the age of eighteen (18) years shall be permitted to play any game or *games of chance* conducted pursuant to any *license* issued under this chapter. Persons under the age of eighteen (18) years may be permitted to attend *games of chance* at the discretion of the licensee. No person under the age of eighteen (18) years shall be permitted to operate or assist in any *game of chance* conducted pursuant to any *license* granted in this chapter.
- P. *Games of chance* may be conducted by a licensee on Sundays, provided the *license* granted expressly permits it. Notwithstanding the foregoing, no *games of chance* may be conducted on Easter Sunday, Christmas Day, or New Years Eve.

Q. All *games of chance* shall be conducted and operated in compliance with Article 9-A of the General Municipal Law.
(LL No. 3, 1996 § 8)

5.08.090 Control and supervision of licenses--Inspection of *premises*.

The town or the office of the Chemung *County* sheriff, as its chief law enforcement officer, shall have the right to exercise control over all *games of chance* conducted under a *license* granted in this chapter and to stop any *games of chance* which are not conducted fairly and in accordance with the provisions of such *license* and the provisions of this chapter and Article 9-A of the General Municipal Law. The *town board* or its designated officer shall have the power and the authority to temporarily suspend any *license* issued pending a hearing. The licensee shall receive written notice stating the reasons therefor which shall be given to licensee within ten (10) days of any *temporary* suspension and which includes a proposed date of hearing to be conducted within thirty (30) days of the suspension. After a hearing, the *town board* may suspend or revoke the *license*, modify or reverse any action taken. The town shall have the right of entry, by its respective officers and agents, or by the Chemung *County* sheriff, at all times into any *premises* where any *game of chance* is being conducted, or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. The *town board* or any enforcement officer duly appointed by it or the Chemung *County* sheriff or one of his or her deputies may make on-site inspections during the conduct of all *games of chance* licensed pursuant to this law and the licensee expressly permits such entry and access as a condition of any *license* granted.

(LL No. 3, 1996 § 9)

5.08.100 Charge for admission and participation--Amount of prizes--Award of prizes.

As permitted by state law, a fee may be charged by any licensee for admission to any *game* or *games of chance* conducted under any *license* issued under this chapter. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game

of chance.
(LL No. 3, 1996 § 10)

5.08.110 Statement of receipts and expenses--Additional *license* fees.

Within seven days after the conclusion of any *license* period, other than a *license* period for a raffle or otherwise prescribed by the New York State Racing and Wagering Board, the *authorized organization* which conducted the same, and its members who were in charge thereof, shall furnish to the town clerk a statement and such supplement documentation, subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred or paid, and each item of expenditure made or to be made other than prizes; the name and address of each person to whom each such item of expense has been paid or is to be paid with a detailed description of the merchandise purchased or the *services* rendered therefor, the net proceeds derived from the conduct of *games of chance* during such *license* period, and the use to which such proceeds have been or are to be applied and it shall be the duty of each licensee to maintain and keep such books and *records* as may be necessary to substantiate the particulars of each such statement.

Within thirty (30) days after the conclusion of an occasion at which a raffle was conducted, the *authorized organization* conducting such raffle and the members in charge of such raffle, shall each furnish to the town clerk a statement on a form prescribed by the New York State Racing and Wagering Board, subscribed by the member in charge and affirmed by him or her as true, under the penalties of perjury, showing the number of tickets printed, the number of tickets sold, the price and the number of tickets returned to or retained by the *authorized organization* as unsold, a description and statement of the fair market value for each prize actually awarded, the amount of the gross receipts derived therefrom, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, a detailed description of the proceeds derived from the raffle at such occasion, the use to which the proceeds have been or are to be applied and shall be the duty of each licensee to maintain and keep such books and *records* as may be necessary to substantiate the particulars of each such statement.

Any *authorized organization* required to file an annual report with the secretary of state pursuant to Article 7-A of the Executive Law or the attorney general pursuant to Article 8 of the Estates, Powers and Trusts Law shall include with such annual report a copy of the statement required to be filed with the town clerk pursuant to this chapter.

Upon the filing of such statement of receipts pursuant to paragraph one or two of this section, the *authorized organization* furnishing the same shall pay to the town clerk as and for an additional *license* fee a sum based upon the reported net proceeds, if any, for the *license* period, or in the case of raffles, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the New York State Racing and Wagering Board to defray the actual cost to municipalities administering *games of chance* but such additional *license* fee shall not exceed five percent of the net proceeds for such *license* period.

(LL No. 3, 1996 § 11)

5.08.120 Advertising games.

A licensee may advertise the conduct of *games of chance* to the general public by means of *signs* in compliance with the *zoning law* of the town. The size of the *sign* shall be limited to the requirements of the *zoning law* as it applies to the particular *zoning district* in which the licensed *games of chance* are to be located or conducted. All advertisements shall be limited to a description of such event and include the name of the *authorized organization* conducting the games, the *license* number of the *authorized organization*, date, location and time of event.

(LL No. 3, 1996 § 12)

5.08.130 *Service* of alcoholic beverages.

Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of *games of chance* as permitted in Section 186(19) of the General Municipal Law, provided, however, that nothing in this chapter shall be construed to limit the offering for sale of any other alcoholic beverage in an area other than as permitted in Section 186(19) of General Municipal Law or the sale of any other alcoholic beverage on *premises* where only *games of chance* known as the bell jar or raffles are conducted.

(LL No. 3, 1996 § 13)

5.08.140 Powers and duties of the board.

The *town board* of Big Flats may designate an officer or officers of the town to have duties for the issuance, amendment, cancellation or *temporary* suspension of *licenses*, the conduct of investigations and hearings, the supervision of the operation of the games, and the collection and transmission of fees. The *town board* will conduct any necessary hearing on the denial of an *application* for a *license* or the suspension or revocation of a *license* under this chapter.
(LL No. 3, 1996 § 14)

5.08.150 Offenses--Forfeiture of *license*--Ineligibility to apply for *license*.

The making of any false statement in any *application* for a *license* or in any statement annexed thereto, or any unauthorized operation of *games of chance* or the wilful violation of the terms of a *license* shall constitute a misdemeanor, and shall subject the offender to revocation or forfeiture of *licenses*, and may render the offender ineligible to apply for a *license* for one year thereafter.
(LL No. 3, 1996 § 15)

5.08.160 Persons and equipment *used* for games.

No person shall operate any *game of chance* and no *game of chance* shall be conducted with any equipment, except as authorized by Section 195-c of the General Municipal Law as it may be amended from time to time.
(LL No. 3, 1996 § 16)

5.08.170 Enforcement.

The Chemung *County* sheriff's *department* or any officer or officers of the town delegated by the *town board* for enforcement of this chapter may exercise control over any *games of chance* conducted under any duly authorized *license* or immediately close any unauthorized *games of chance*. The Chemung *County* sheriff's *department* or any such delegated officer of the town shall have all powers and duties set forth in and for the enforcement of Article 9-A of the General Municipal Law.
(LL No. 3, 1996 § 17)

5.08.180 Territorial limits.

This chapter shall be applicable to all *games of chance* conducted within the limits of the town.
(LL No. 3, 1996 § 18)

Chapter 5.12

PEDDLERS, SOLICITORS, CIRCUSES AND EXHIBITIONS

Sections:

5.12.010 *License* required.

5.12.020 Exemptions.

5.12.030 *Licenses* for circuses or exhibitions.

5.12.040 *Licenses* for *hawkers, peddlers and solicitors*.

5.12.050 Issuance of *licenses*.

5.12.060 Vehicles.

5.12.070 *Employees*.

5.12.080 Expiration.

5.12.090 Fees.

5.12.100 Insurance.

5.12.110 Revocation of *licenses*.

5.12.120 Display of *license*.

5.12.130 Additional violations.

5.12.010 *License* required.

No person shall within the town act as a *hawker, peddler* or solicitor, or present or cause to be presented, any circus or exhibition without first having obtained a *license* and having the same in force and effect as hereinafter provided.
(LL No. 8, 2001 § 1)

5.12.020 Exemptions.

Nothing in this chapter shall be held to apply to:

- A. Any sales conducted pursuant to statute or by order of any court;
- B. To any person selling *personal property* at wholesale to dealers in such articles;
- C. To merchants having an established place of business with the town or their *employees* for soliciting orders from *customers* and delivering the same;
- D. To farmers and truck gardeners, who themselves or through their *employees*, vend, sell or dispose of products of their own farms and gardens;
- E. To any honorably discharged soldier, sailor or marine who has procured a *license* as provided by the General Business Law of the state of New York;
- F. Berry pickers who sell berries of their own picking;
- G. To persons collecting for any bona fide charitable organization as determined by the *town board* or town clerk;
- H. Unlawfully interfere with interstate commerce.

(LL No. 8, 2001 § 2)

5.12.030 Licenses for circuses or exhibitions.

Any person desiring to have a *license* shall file with the town clerk a written *application* setting forth the following minimum information:

- A. The name and business address of the person owning the circus or exhibition;
- B. The name of the person who is to be in charge of the circus or exhibition while the same is performing in the town and information as to where he may be contacted by telephone;
- C. The name and address of the person with whom is carried the public liability insurance and the minimum amount of such *coverage* as required under this chapter;
- D. The location at which said circus or exhibition is to be given and the length of stay thereof.

(LL No. 8, 2001 § 3)

5.12.040 Licenses for *hawkers, peddlers and solicitors*.

Any person desiring to have a *license* shall file with the town clerk a written *application* setting forth the following minimum information:

- A. The name, resident and business address of *applicant*;
- B. The name, resident and business address of the principal, if *applicant* is agent, including the names and address of all partners; if a partnership and the names and addresses of the principal officers, if a corporation; and the name and address of a person upon whom a legal notice may be served;
- C. A general description of the merchandise to be sold or the kind of *service* the person desires to render;
- D. A general description of the method of distribution to be *used* and if vehicles are involved, the name and address of *owner* together with registration information;

- E. The length of time that the *applicant* expects to be making local distribution and the names and address of all solicitors, *hawkers* and *peddlers*;
- F. The name and address of the person with whom is carried the public liability insurance and the minimum amount of such *coverage* as required by this chapter;
- G. Such other information as the town clerk may reasonably desire.

(LL No. 8, 2001 § 4)

5.12.050 Issuance of licenses.

Upon payment of the fees as set forth in this chapter, the town clerk shall issue the *license* applied for unless it shall appear from the *application* or other information that:

- A. The *applicant* has not complied with this chapter or other applicable statutes, chapters and laws applying to the *applicant*;
- B. The protection of the public safety, health, morals or general welfare of the community may be adversely affected;
- C. The *town board* has, by resolution duly adopted, notified the town clerk not to issue such *license*;
- D. The *applicant* is a person under eighteen (18) years of age.
- E. That the *applicant* has been refused a *license* or has had a *license* revoked and a period of at least six months has not elapsed since the last rejection or revocation date.

(LL No. 8, 2001 § 5)

5.12.060 Vehicles.

Such *license* shall give the licensee the right to use only one vehicle in carrying on the business for which he is licensed. For each additional vehicle so used by him or her, an additional fee, as established by the *town board*, by resolution, shall be paid, in which event, the *license* shall state the number of vehicles permitted to be used. Vehicles used by the licensee shall:

- A. Be kept in a clean and sanitary condition and the food stuffs and edibles offered for sale shall be well covered and protected from dirt, dust and insects;
- B. Not stop or remain on a cross walk or in a road intersection.

(LL No. 8, 2001 § 6)

5.12.070 Employees.

A licensee may employ an unlicensed person to assist in selling and delivering his wares but such unlicensed person shall so act only while accompanying a licensed *peddler*, *hawker* or solicitor. If the licensee is a corporation, the corporation may employ two unlicensed persons to assist in selling and delivering its wares, and such corporation shall pay an additional fee as established by the *town board*, by resolution.

(LL No. 8, 2001 § 7)

5.12.080 Expiration.

Such license shall automatically expire on January 1st following the date of issuance of such license. However, such license may provide for an earlier expiration date.

(LL No. 8, 2001 § 8)

5.12.090 Fees.

The license fee shall be set by the town board by resolution and be reviewed annually at the town's organization meeting or at any other such time that the town board deems appropriate. The license shall not be in effect until the fee has been paid to the town clerk and the clerk's receipt.

(LL No. 8, 2001 § 9)

5.12.100 Insurance.

Prior to any license being issued pursuant to this chapter, the applicant shall submit and file with the town clerk a certificate of insurance, or like document evidencing the existence of a valid general liability insurance policy issued in the name of the applicant and under which the town is listed as an additional insured. The limits of such policy shall not be less than one million dollars (\$1,000,000.00) unless a lesser amount is approved by the town board and the attorney for the town for good cause shown.

(LL No. 8, 2001 § 10)

5.12.110 Revocation of licenses.

Upon the refusal of the town clerk to issue a license to any applicant or upon the determination of the town board that any license should be revoked, the procedure prescribed in Section 137 of the Town Law shall be complied with. When a license shall be revoked, no refund of the license fee shall be made. Notice of such revocation and the reason therefore shall be served by the town clerk in writing upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the town clerk.

(LL No. 8, 2001 § 11)

5.12.120 Display of license.

Every licensee, as well as every person holding a license under the provision of Section 32 of the General Business Law, shall, while engaged in hawking, peddling or soliciting within the town, carry his or her license upon his or her person and shall produce and exhibit the same upon demand of any police officer, or any town officer, employee or resident. The refusal of any such person to produce a license upon demand shall be presumptive evidence of a violation of this chapter.

(LL No. 8, 2001 § 12)

5.12.130 Additional violations.

In addition to other provisions of this chapter, it shall also be a violation of this chapter for a licensee or his employee, contractor, agent or other representative:

- A. To falsely or fraudulently represent the quantity, character or quality of any article offered for sale; or offer for sale any unwholesome, tainted or diseased provisions or merchandise;
- B. To blow a horn, ring a bell or use any other noise device to attract public attention to his or her wares, or shout or cry out his or her wares. However, a circus or exhibition may reasonably so advertise on the premises designated for the holding of such circus or exhibition provided such advertising complies with all laws, rules and regulations governing such activity;
- C. Not stand or be allowed to permit to stand in any one place in any public street for more than ten (10) minutes, or on any premises for any time if the owner or lessee of the property objects;
- D. To sell any confectionery or ice cream within two hundred fifty (250) feet of any school between the hours of eight (8) o'clock a.m. or four (4) o'clock p.m. on school days;
- E. To create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise;
- F. To perform the licensed activities in a public right-of-way without the expressed written consent of the authority having jurisdiction over such public right-of-way.

(LL No. 8, 2001 § 13)

Chapter 5.16

TIMBER HARVESTING

Sections:

5.16.010 Purpose.

5.16.020 Authority.

5.16.030 Permit requirements.

5.16.040 Application for timber harvest permit.

5.16.050 Performance guarantee.

5.16.060 Insurance.

5.16.070 Review of timber harvest permit applications.

5.16.080 Standard for harvesting.

5.16.090 Enforcement.

5.16.100 Violations--Penalties.

5.16.010 Purpose.

The purpose of this chapter is to promote the health and safety of the residents of the town by protecting the natural environment as affected by timber harvesting. The town recognizes that the timber resource in the town is of significant value and will be harvested. The town also recognizes that if timber harvesting practices are poorly carried out they can result in significant environmental damage to the land and to adjacent lands and waters. Thus, this chapter is intended to regulate those harvesting activities that most readily render environmental damage, such as stream crossings and the location of landings, haul roads and skid trails; to require reclamation efforts that can limit subsequent environmental damage, particularly to control soil erosion and sediment laden runoff; and to utilize professional forest management expertise in the preparation and evaluation of timber harvest planning. (LL No. 7, 2001 § 1)

5.16.020 Authority.

This chapter is adopted pursuant to article 2 of Municipal Home Rule Law, and General Municipal Law, Section 96-b. (LL No. 7, 2001 § 2)

5.16.030 Permit requirements.

Any person desiring to remove timber in quantities greater than fifty (50) standard cords of wood or four thousand (4,000) cubic feet of wood or twenty-five thousand (25,000) board feet of timber as measured by international one-quarter (1/4) inch log rule in any twelve (12) month period shall obtain a timber harvest permit from the town except that a timber harvest permit shall not be required in the following situations:

- A. If the owner of the property on which the timber is located is an active Cooperator under the New York State Cooperative Forest Management Program or the Forest Practice Act Program under Section 480 (a) of the Real Property Tax Law;
- B. If the property is being prepared for residential, commercial, or industrial land use as authorized in an approved site plan, subdivision plat or variance;
- C. For utility line maintenance.

(LL No. 7, 2001 § 3)

5.16.040 Application for timber harvest permit.

An application for a timber harvest permit shall be applied for by the property owner and if applicable, jointly with the logger or forester responsible for the harvest activities on the property and shall include:

- A. A description of the proposed harvesting activity including a description of the type of harvesting to be completed including but not limited to clear-cutting, diameter limit cutting in which case the minimum stump diameter shall be designated, thinning, or select cutting;

- B. The inclusive dates of such harvesting activity;
 - C. Sufficient information to designate that the proposed harvesting activity will comply with the standards for harvesting set forth in Section 5.16.080 of this chapter;
 - D. A map or plan at a minimum scale of 1:100 showing the harvest area and the location of proposed forest haul roads, landings and as may be applicable, stream crossings;
 - E. The application shall include the appropriate fee as established in Chapter 2.12 of the town code.
- (LL No. 7, 2001 § 4)

5.16.050 Performance guarantee.

The applicant shall be responsible for any damage to any road, right-of-way, or public way used by such applicant for the transport of timber harvest products permitted by the town in issuing a timber harvest permit. The applicant shall guarantee the repair, replacement or reclamation of such damage and the compliance with the terms and conditions of the timber harvest permit by providing sufficient security in a form and amount as approved by the town board. Such security shall be posted with the town prior to the issuance of a timber harvest permit and processed as follows:

- A. The security shall be held by the town until completion of the harvesting activity.
- B. Upon the completion of a harvesting activity, the code enforcement officer and the town highway superintendent shall provide a written statement to the town board documenting:
 - 1. The condition of the property subject to the timber harvest permit and the compliance with the standard for harvesting set forth in Section 5.16.080, of this chapter;
 - 2. The applicant's compliance with the terms and conditions of the timber harvest permit;
 - 3. The condition of the public road, right-of-way or public way used by the applicant for the purpose of transporting timber harvest products.
- C. Upon review of the documentation submitted pursuant to subsection B of this section the town board shall:
 - 1. Release the security held by the town under this chapter to the applicant after determining the applicant has completed the harvesting activity in full compliance with this chapter; or
 - 2. In case of noncompliance with this chapter, utilized or continue to hold the security to insure that any noncompliance with this chapter is fully ameliorated.

(LL No. 7, 2001 § 5)

5.16.060 Insurance.

No timber harvest permit shall be issued pursuant to this chapter, until the applicant shall file with the town a certificate of insurance, or like document evidencing of valid general liability insurance policy issued in the name of the applicant and under which the town is listed as an additional insured. The limits of such policy shall not be less than one million dollars (\$1,000,000.00) unless for good cause shown by the applicant a lesser amount is authorized by the town board and the attorney for the town.

(LL No. 7, 2001 § 6)

5.16.070 Review of timber harvest permit applications.

- A. An application for a timber harvest permit shall be reviewed by the code enforcement officer. The code enforcement officer shall summarize the results of this review and forward the application for consideration by the town board.
- B. The town board, as the approval authority, may:

1. Refer the timber harvest permit application to the department of environmental conservation or Chemung County soil and conservation district for review; or
 2. Require the services of a consultant, inspection or legal service provider in accordance with Chapter 2.08 of the town code.
- C. Upon completion of any review pursuant to subsection B of this section, the town board shall either approve or deny the timber harvest permit.
- D. The town board may impose such terms and conditions on the issuance of a timber harvest permit as may be determined to be required to assure protection of the environment, public property and compliance with the purpose and particulars of this chapter.
- E. The decision by the town board to approve, approve with terms and conditions or deny the application shall be in writing and filed with the town clerk and mailed to the applicant, via regular US mail, within ten (10) days of the date of such decision.

(LL No. 7, 2001 § 7)

5.16.080 Standard for harvesting.

All timber harvesting pursuant to this chapter shall comply to the following:

- A. Harvest Standard.
1. The applicant shall obtain and provide evidence of all required permits from any other agency that has authority over any segment of the area to be used for the purpose of the permitted harvesting.
 2. No forest haul road or constructed skid trail shall exceed a slope of twenty-five (25) percent for a distance of more than two hundred (200) feet. The applicant shall take appropriate measure to divert running water from the roads at intervals in order to minimize erosion.
 3. If the property subject to a timber harvest permit under this chapter contains steep slopes, no haul roads or skid trails shall be constructed on such steep slopes. However, one haul road may be constructed horizontally across a steep slope solely for the purpose of connecting a harvestable area to a town road if no other access is available. Random individual tree skidding is permitted on steep slopes.
 4. All streams shall be crossed using a temporary culvert or bridge and all such crossings shall be made in a direction that is at a right angle to the flow of the stream. Crossings shall be at locations where the banks are low and stable. Stream fords may be used if they are of a design that will prevent stream bed alteration and erosion when installed. The design of such a ford shall be submitted as part of the plan required in Section 5.16.040 of this chapter.
 5. There shall be no skidding in any stream channel. All logging trash and debris shall be removed from any stream channel.
 6. The code enforcement officer may require the placement and maintenance of waterbars at such points as landings, skid trails or other areas of land disturbance as determined necessary.
 7. Buffer strips shall be retained at least fifty (50) feet wide along streams, and at least one hundred (100) feet wide along public roads. Within such buffer strips, no trees of less than twelve (12) inches stump diameter shall be harvested unless:
 - a. The property is in the Cooperative Forest Management Program pursuant to Section 5.16.030 of this chapter; and

- b. The trees have been properly marked by the applicable agency.
 - 8. No landings shall be located within a buffer strip abutting a stream. Landings located within a buffer strip abutting a road shall be properly graded and protected to prevent erosion and sedimentation and to prevent any water runoff from entering the road or the roadside ditch.
 - 9. The entrance of a haul road from a town road shall be constructed in accordance with the town's zoning and driveway specifications and as approved by the town highway superintendent.
- B. Reclamation Standards.
- 1. Haul roads shall have waterbars constructed at the following intervals:

Haul Road Grade	Spacing in Feet
2-5%	300-500'
6-10%	200-300'
11-15%	100-200'
16 and greater	100'

- 2. Haul roads and skid trails shall be smoothed, sloped, ditched and seeded with perennial grasses, as needed.
- 3. Landings shall be smoothed, seeded and protected from erosion and sedimentation.
- 4. Stream crossings, temporary stream culverts and bridges shall be removed, and the stream banks shall be stabilized and protected from erosion and sedimentation.
- 5. All reclamation efforts shall be subject to inspection by the .code enforcement officer.

(LL No. 7, 2001 § 8)

5.16.090 Enforcement.

The applicant for a timber harvest permit shall permit the code enforcement officer to enter upon the property that is identified in the application as the area subject to the harvesting activities for the purpose of enforcing the provisions and standards of this chapter, as well as, any conditions or terms of a permit. Such entry shall be made with notice to the applicant either by telephone or by regular US mail and be at such times as the premises can be reasonably inspected.

(LL No. 7, 2001 § 9)

5.16.100 Violations--Penalties.

Noncompliance with any provision of this chapter or the terms and conditions of a timber harvest permit shall be a misdemeanor and subject to the penalties set forth in Chapter 1.08 of the town code.

(LL No. 7, 2001 § 10)